



EEO-1 Component 2 Submission Deadline Update

On March 4, 2019, Judge Chutkan of the U.S. District Court for the District of Columbia lifted the stay blocking the EEOC's use of the revised EEO-1 form that requires employers to submit summary wage data by race/ethnicity and gender – which is commonly referred to as “Component 2 data”. In a subsequent March 19, 2019 Order, the Court then required the EEOC to state its position on the collection and submission of Component 2 data in light of the Court's ruling lifting the stay.

On April 3, 2019, in a public court filing, the EEOC raised concerns about the quality of the information that might be collected in light of the project scope and timeline.¹ The EEOC also stated that under the plan outlined in its filing, employers would be required to submit their 2018 EEO-1 pay and hours data by September 30, 2019, and that the agency will not require employers to report 2017 pay and hours data at this time. However, Plaintiffs in the action have now opposed the EEOC plan and questioned why the collection of Component 2 data cannot be completed by the original EEO-1 deadline of May 31, 2019. Whether or not the Court accepts the EEOC plan remains to be seen. **For now, employers should move forward with preparing to submit the Component 2 data as early as May 31, 2019. If the Court accepts the EEOC's plan, employers will have a brief extension until September 30.**

Employers should also be aware that the EEOC's website still states that May 31, 2019, is the submission deadline for EEO-1 data. In light of this, it appears that the **Component 1 demographic data must still be submitted by the earlier May 31, 2019 deadline**, and the proposed extension only applies to Component 2 data.

Component 2 Refresher

Component 2 of the EEO-1 requires employers with more than 100 employees to submit employee pay data to the EEOC. In general, the employer culls the information for submission by selecting a payroll period between October 1 and December 31, 2018, and then including all payroll data for the selected payroll period for both part-time and full-time employees in the Component 2 report. The employer must report earnings and hours data aggregated according to the employee's respective assigned EEO-1 job categories. W-2 "Box 1" earnings determine the pay bands into which the employees fall. The employer must also indicate the number of employees within each category by sex and race/ethnicity and will aggregate hours data in the pay bands by sex and race/ethnicity.

We will keep you apprised of future developments as the federal action progresses and the Plaintiffs continue to push for additional relief from the Court – including an Order that requires the EEOC to make a formal announcement to employers about their renewed obligation to supply Component 2 data. For additional information regarding the collection and submission of Component 2 data, please contact your employment counsel.

[1] The EEOC's April 3, 2019 filing can be found at the following link: <https://cdn2.hubspot.net/hubfs/4352717/43.pdf>

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